REMARKS

Claims 1-8, 10-13, 15-16 and 18-19 are pending and under consideration.

Independent claim 1 (used as an example) recites the classifying comprising comparing the length of the defect with first and second times determined according to a recording speed of the optical disc.

The Examiner admits that Takasago, Kamiyama and Nakane do not teach or suggest these features. Instead, the Examiner relies upon Kishimoto. However, the Examiner has not explained why one would have been motivated to combine Kishimoto with the remaining references.

At page 5, line 21 to page 6, line 2, of the Office Action, the Examiner provides motivation to take speed into account when determining the size of a defect in a variable speed environment. The teaching for a variable speed environment comes from Kishimoto. However, there is no explanation why one of ordinary skill in the art would have ever modified the combination Takasago, Kamiyama and Nakane to include variable speed. The only purported motivation is to record at a higher and/or more appropriate speed. However, these results do not require variable speed. Takasago, Kamiyama and Nakane could achieve these results by using a single speed that maximizes recording speed.

Accordingly, withdrawal of the rejections is requested.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.
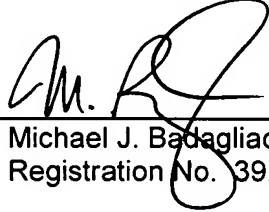
If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: ___7-24-08___   By: _____

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